

REMARKS

Claims 1-13 are pending in the Application, with claims 1, 7, and 12 being amended with this Response. The Examiner's rejections will now be respectfully addressed in turn.

Objections to the Claims

Claims 1 and 7 have been objected to for informalities. In response, Applicant respectfully amends claims 1 and 7.

Rejections under 35 U.S.C. §102(b)

Claims 1-5 and 12-13 have been rejected under 35 U.S.C. §102(b) as being anticipated by Non-Patent Literature to Fulton ("Fulton" hereinafter). Applicant respectfully traverses this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant's claims 1 and 12 respectively recite *inter alia*,

"a sensing layer associated to a seating surface of the *automobile* seat."

Applicant respectfully asserts that Fulton does not teach anything suggestive of a vehicle seat, as is recited in Applicant's claims. Instead, as is discussed throughout the reference, Fulton is specifically directed to *wheel chair* sensors used in clinical environments. For at least this reason, Applicant respectfully submits that the Fulton reference does not teach every element of Applicant's claims 1 and 12, or claims 2-5 and 13 that depend therefrom.

In addition, Applicant respectfully notes that the stated and intended purpose of the sensors disclosed in Fulton is directed usage in clinical environments such as the “hospitals and nursing homes” discussed in the Introduction of Fulton. Accordingly, if the Examiner were to propose a 103 rejection relying on a modification/combination of the sensors in the Fulton reference with known vehicle seat configurations, such a rejection would be improper under the 2143.01 V “intended purpose” section of the MPEP. This is because any structural association of the Fulton sensors with an “automobile seat” (as recited in Applicant’s claims) would result in these sensors necessarily having to travel with the automobile seat, and thus, away from these clinical environments of Fulton. Therefore, such a modification/combination would render the Fulton sensors unsatisfactory for their intended clinical purpose. As such, this potential modification/combination would be improper under the 2143.01V “intended purpose” section of the MPEP.

Applicant additionally points out that claims 1 and 12 recite, *inter alia*:

“said electrodes being associated to said sensing layer only at a periphery of a sensing area.”

Fulton does not teach electrodes associated to a sensing layer at the *periphery* of the sensing layer. On the contrary, Fulton teaches movement of its sensors away from a periphery of the layer, as is evidenced by the Fulton discussion, which states that “The benefit of moving just four of the current injection and voltage measurement nodes toward the centre of the mat is quite clear. The limited spatial resolution in the central region leads to the high error in these elements when using edge electrodes only.” (page 99, column 2, lines 1-5 of Fulton).

For at least the above reasons, Applicant respectfully submits that Applicant’s claims 1-5 and 12-13 are not anticipated by Fulton, and would not be obvious in view of Fulton as combined with any known vehicle seat, if such an obviousness rejection were to be made.

Rejections under 35 U.S.C. §103(a)

Claim 6 has been rejected under 35 U.S.C. §103(a) as being obvious over Fulton in view of United States Patent No. 7,066,376 to Scher (“Scher” hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claim 6 depends from claim 1. Thus, Fulton does not teach every element of Applicant’s claim 6 (see the 102 Remarks above). Since the Scher does not remedy the above discussed deficiencies of Fulton, Applicant respectfully asserts that the proposed combination of Fulton and Scher does not teach every element of Applicant’s claim 6. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claim 6 with respect to the proposed combination of Fulton and Scher. Since the proposed combination of Fulton and Scher fails to teach or suggest all of the limitations of claim 6, clearly, one of ordinary skill at the time of Applicant’s invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claims 7-10 have been rejected under 35 U.S.C. §103(a) as being obvious over Fulton in view of United States Patent No. 6,875,938 to Schimiz (“Schimiz” hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the

prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claims 7-10 include all of the elements of claim 1. Thus, Fulton does not teach every element of Applicant's claims 7-10 (see the 102 Remarks above). Since the Schmitz does not remedy the above discussed deficiencies of Fulton, Applicant respectfully asserts that the proposed combination of Fulton and Schmitz does not teach every element of Applicant's claims 7-10. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 7-10 with respect to the proposed combination of Fulton and Schmitz. Since the proposed combination of Fulton and Schmitz fails to teach or suggest all of the limitations of claims 7-10, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claim 11 has been rejected under 35 U.S.C. §103(a) as being obvious over Fulton in view of Schmitz and United States Patent No. 6,829,942 to Yanai ("Yanai" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Claim 11 depends from claim 7, which, as mentioned above, includes every element of claim 1. Thus, Fulton does not teach every element of Applicant's claim 11

(see the 102 Remarks above). Since the neither Schmitz nor Yanai remedy the above discussed deficiencies of Fulton, Applicant respectfully asserts that the proposed combination of Fulton, Schmitz, and Yanai does not teach every element of Applicant's claim 116. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claim 11 with respect to the proposed combination of Fulton, Schmitz, and Yanai. Since the proposed combination of Fulton, Schmitz, and Yanai fails to teach or suggest all of the limitations of claim 11, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Conclusion

Applicant believes that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact applicant's attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,

By: /Daniel R. Gibson/
Daniel R. Gibson
Registration No. 56,539
CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford, CT 06103
Telephone: 860-286-2929
Facsimile: 860-286-0115
Customer No. 23413

Date: November 13, 2008